

**FLATHEAD COUNTY PLANNING BOARD
WHITEFISH AREA LAKE AND LAKESHORE OPTIONS WORKSHOP MINUTES
SEPTEMBER 24, 2014**

**CALL TO
ORDER**

A workshop of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Noah Bodman, Jim Heim, Tim Calaway, Greg Stevens, Ron Schlegel and Jeff Larsen. Gene Shellerud had an excused absence. BJ Grieve and Lawson Moorman represented the Flathead County Planning & Zoning Office.

There were approximately 34 people in the audience.

**PUBLIC
COMMENT**

Hickey-AuClaire asked with a show of hands how many members of the public planned on speaking during public comment. She said in the Flathead County Planning Board bylaws they were allowed to limit public comment to three minutes. She suggested the time limit of four minutes for public comment to give more time than the three minute limit. She offered suggestions to help move comments along to help with time for board discussion. She wanted to make sure there was opportunity for everyone to speak.

Duncan Scott, 1001 South Main Street, was a lawyer in independent practice. He spoke about the option matrix which had been made available to the public (see attached). Option four would renew the bitterness of the Whitefish Donut dispute. With option five, the county would have trouble working with Whitefish and the result may end up in court for years. Option six would disenfranchise the county residents again. He reviewed the differences in the regulations for option one and three. There was no need for a special committee for those options; the board had done a good job with the other lakes. Option one was the simplest option.

Russell Crowder, American Dream Montana, wanted to reiterate what Scott had said. They supported option one. He thought there should be public meetings in the former donut to see what the residents wanted. The current regulations would work well.

Charlie Abell, 5 Woodland Place, gave a history of Whitefish Lake and how legislation had come to be concerning the lake. He also reviewed how committees for the lake were formed and who were involved. He quoted MCA 75-7-207 Section 4 concerning lakeshore regulations. He felt different regulations should be

adopted for the lakes. He quoted 75-7-208 Section 5 concerning permits, 75-7-209 concerning regulations for a particular lake, and also 75-7-2014 concerning cooperation between governing bodies.

Hickey-AuClaire said the physical timer was not working properly so she was also watching the clock on her phone for the speaking time limit.

Grieve offered his digital watch.

Hickey-AuClaire said the phone was working fine.

Bob Brown, 333 Cougar Trail, shared the history of the Whitefish Lakeshore Protection Committee and the law concerning lakeshore protection. He strongly agreed with Abell. He strongly encouraged the board to not adopt recommendation one or two. He thought they should adopt recommendation three or four instead.

Jim Stack gave the board a handout. He had been on the Whitefish Lakeshore Protection Committee for over 20 years. He joined the committee because he was opposed to regulations but became an advocate of the regulations. He explained why Whitefish Lake had different regulations and the past role of the Whitefish Lake and Lakeshore Protection Committee. The lakeshore regulations were never a part of the dispute over the inter-local agreement. He asked the board to not take them back 20 years and have them start over.

Sharon Morrison had been on the Lakeshore Protection Committee twice. She had given the board a handout. She felt there was a fundamental error in the regulations concerning what type of work needed to go through the permitting process. She quoted MCA 75-7-204. She asked the regulations be brought into line with state statute. She also stated the city and county had been able to work together with regulations in the past.

Lyle Phillips, 2840 Rest Haven Drive, had a contrary position to the previous speakers. After the years of litigation, he felt the city of Whitefish no longer looked at the inter-local residents as part of them. For that reason, he did not want Whitefish to tell him what he could do on Whitefish Lake. He did not see why the county regulations would not be appropriate for the lake. The

residents wanted representation.

Gerald Askevold, 89 Dancing Bear Lane, gave his history of living on various lakes in the county ending at Blanchard Lake. He explained his experience of trying to submit an application for a dock immediately following the supreme court's ruling with both Whitefish and the county. He asked how long he would need to wait to submit an application. He had been a part of the Friends of Blanchard Lake and they felt the extra oversight was needed beyond what any political jurisdiction could do. They had elected to be included in the Whitefish Lost Coon Lake district because they felt the committee had done solid work and they wanted the expertise.

Stevens said the board had not intended to hold the workshop this evening, the county commissioners asked them to expedite the process. There was interest in resolving the situation.

Grieve said Blanchard Lake was under the county. There was a time between July 15 and a month after, the dust was settling and Askvold must have brought in his application at that time. Lakeshore permits had been processed through the county after mid-August.

Grieve and Askvold briefly discussed what Askvold would need to do to start the process of applying for a dock permit.

Richard Hildner, deputy mayor of Whitefish, spoke on behalf of the mayor. He read a statement from the mayor which said the city council was in favor of reestablishing the Whitefish Lake and Lakeshore Protection Committee as a joint planning committee with Flathead County. He was opposed to options one and two. Option four was preferred and option three would be acceptable. He asked the board to send a message to the commissioners asking they reestablish a joint planning committee similar to the past Whitefish Lake and Lakeshore Protection Committee. He said the current process worked so he encouraged the board to either adopt option three or four. He gave the board a handout.

Mike Koopal, director of the Whitefish Lake Institute. He explained what the Institute did, how the lakes in the county differed, the health of Whitefish Lake and what was unique about Whitefish Lake which necessitated its own regulations.

Dave Taylor, Planning Director of Whitefish, summarized a letter

he had sent Grieve. Options one and two were not the best options for the lake, number four would be preferred, although they could live with option number three. There were unique regulations for the lake. He said there were reasons why the lake had unique regulations and continued on to summarize differences. Whitefish still had authority over half of the lake and they had annexed the lake bottom so past the low water mark was in the city. There was the potential of an applicant needing to obtain two permits for a project. There was no reason the Whitefish Lake and Lakeshore Protection Committee could not offer recommendations to both the county and city. It would be much more complicated to change things from the way they had worked well.

Ginia Hauf, 2834 Rest Haven Drive, explained her background and how she differed from some of the other speakers. She supported option three with a committee to look into option four. She explained when emotion is taken away, there were reasons why Whitefish Lake was unique, she urged the board to take a look and see what worked and what didn't work with the lake, tweak it until it worked then look at the best interest of the lake. There was already a committee in place which had worked with both the county and city. She strongly suggested the board vote for options three or four.

Koel Abell, 355 Lost Coon Trail, gave his history on Whitefish Lake. He urged the board to recommend option four to the commissioners and explained why. The one of the reasons included having one body of water under one set of rules. The Whitefish Lake and Lakeshore committee should be kept because they are advisory and lend a second set of eyes on applications. Adding two lakes to the other lakes the county oversaw was not an easy task. He had been the newest member of the committee and recounted how many applications they had heard, they knew the lake and the committee used to be the monitoring mechanism on the lake. He urged the board to consider option four.

Diane Smith, 2060 Huston Drive, said in listening to public comment, it sounded as if things worked spectacularly well. She read comments the board already had which stated otherwise. She explained how they had gotten to this place, which included Whitefish not listening to the inter-local residents. The risk of an inter-local agreement was the county being sued again; they would not listen to people again. At the end of the day, if they

did not like the way things were going, they would sue you.

Rebecca Norton, 530 Scott Ave, was in favor of option six. She thought the Whitefish Lake and Lakeshore Committee had worked very effectively. She gave reasons for protecting the lake which included it being a water source. The city was capable of monitoring the lake. She didn't think the board should fix something which was working for the community.

Mayre Flowers, Citizens for a Better Flathead, she agreed with several speakers before her, so she would not reiterate their comments. They encouraged the board to consider option four, possibly option three. Now was the time to step back from the politics. The lakeshore committee had done its work all through the political process with donut residents and city residents. The committee gave residents equal voice. The commissioners had refused to put a committee in place which would have given the inter-local residents a voice. They should keep the committee in place.

Lisa Stack, 2472 Birch Glen, wanted to reiterate what Askvold had stated during his comment concerning Blanchard Lake. Blanchard Lake residents had voted to adopt the Whitefish Lake and Lakeshore regulations because they preferred them over the county lake and lakeshore regulations.

Hickey-AuClaire and Stack discussed what year Blanchard Lake voted to adopt the Whitefish Lake and Lakeshore Regulations which was 2006.

Cameron Blake, 675 Leksand Trail, wanted to add to the previous comment. The Friends of Blanchard Lake had met in February 2006 to discuss joining the Whitefish Lake and Lakeshore regulations. All the members in attendance that night voted to join unanimously. She asked if there was a process in which they could again vote to be considered separate from the other lakes in the county.

**DISCUSSION OF
WHITEFISH
AREA LAKE
AND
LAKESHORE
OPTIONS
DOCUMENT**

Stevens thanked the speakers who had reviewed the history of the legislation for the lakeshores and for all the people who had commented. He asked Morrison for clarification on her comment.

Morrison clarified at length her statement concerning permits, regulations and statutes.

**GIVEN TO
PLANNING
BOARD BY
PLANNING
STAFF DURING
NEW BUSINESS
AT THE
SEPTEMBER
10, 2014
REGULAR
MEETING**

Stevens and Koopal discussed ice scour on the differing lakes, sediment loading on Whitefish Lake and how effective the protection committee had been on protecting the water quality of the lake.

Hickey-AuClaire briefly clarified process with Grieve.

Schlegel and Koopal discussed what was considered the watershed above Whitefish Lake, where nutrients and factors for algae were potentially coming from, if water tests had been done to see where contamination was coming from and their results.

Schlegel said a similar study had been done on Little Bitterroot Lake and that lake had ice heave six feet tall.

Heim and Koopal discussed how much of a factor smoke from forest fires and wood stoves were for pollution on Whitefish Lake and how the board could get better information on the topic.

Hickey-AuClaire and Stack discussed his proposed resolution and he explained at length the history of a proposed update in 2009 and his proposition of a committee to handle the update. The end result would be one set of regulations for Whitefish Lake.

Larsen said there were two schools of thought. One was people who wanted option one, the other were people who wanted option three. Both positions were adamant. He asked Scott his opinion concerning Stack's comments.

Scott recommended starting with option one and if there are problems then move to option two. He was tired of the argument that Whitefish was unique. He recounted his history of living on different lakes in the county and every lake was unique. He suggested the board do what was best for Flathead County.

Stevens said options four, five and six were unworkable. Option three would require amending the regulations to clean them up and he gave examples. He would review his research again taking into consideration the comment from this meeting.

Grieve reviewed the purpose of the workshop and urged Stevens to take time to read the comments and consider what was said tonight prior to making a conclusion.

The board, Grieve, Scott, Taylor and some members of the public discussed Whitefish's annexation of the lake bottom to the low water mark of Whitefish Lake, what was in the county on the lake, how the annexation could happen, when the annexation occurred and what happened when docks were in both jurisdictions.

The board and Grieve discussed the role of advisory committees to the board and the similarity of the Whitefish Lake and Lakeshore Advisory Committee to the other committees. They also discussed options concerning the Whitefish Lake and Lakeshore Advisory Committee.

Calaway thought option two would give more time to work out problems.

Heim discussed some differences between the two regulations and resources needed to work updates.

Grieve said the pros and cons did not encompass all the pros and cons. He urged the board to be open-minded about all the options and pros and cons and then whittle it down. If there was something staff could not physically accomplish, he would let them know.

Heim and Grieve briefly discussed the office's workload concerning the Whitefish area.

Grieve and the board discussed options of getting the update on the next fiscal year's work plan and what docks were allowed on lakes.

Hickey-AuClaire asked Askvold for clarification on his comment.

Askvold said the board did not want to throw out all the work and expertise which had gone into the Whitefish Lakeshore regulations. He asked the board to keep water quality to the forefront.

Hickey-AuClaire reviewed process.

The board and Grieve discussed if they needed another workshop to discuss the Whitefish Lake and Lakeshore Regulations, what would happen with process and when the board could take

action for a recommendation to the commissioners.

Larsen and Grieve discussed if Grieve could summarize the differences between the two regulations.

Grieve said that had already been done and he could copy it for the board now if they wanted. He briefly summarized what was on the document. He would email the board and post to the website tomorrow.

Hickey-AuClaire reviewed the options for the board concerning process from this point on.

The board and Grieve discussed the options.

The board decided to place the item on the November 12, 2014 board agenda.

Grieve summarized the process and what was available to the public concerning the Whitefish Lake and Lakeshore Regulations.

**PUBLIC
COMMENT**

Charlie Abell, 5 Woodland Place, asked the board to not let the animosity between the two entities undo what had been done, don't be a bureaucracy villain, think about the assets for the future.

Ray Halloran, Ray Consulting, said an advisory committee would be a great asset to the county concerning lakeshore permits.

Schlegel and Halloran discussed what was already in place with several other lakes.

Rebecca Norton, 530 Scott Avenue, said this whole issue was about deregulation which was appalling to her. She felt the board should take time with this issue because it affected so much. She did not see why they could not keep the same structures in place which had worked and if they did change them, they should have solid reasons for doing so.

Jim Stack wished the board could do a poll of the owners on Whitefish Lake. He said the overwhelming opinion of the homeowners would be to not give up the Whitefish Regulations or the Whitefish Lake and Lakeshore Protection Committee. He said to respect the 30 years of history and the hundreds,

thousands of hours put in by volunteers on the board for Whitefish Lake. The archived lakeshore permits for the Whitefish area are in his basement. The permits from 2005 are with the city electronically. He again urged the board to not do away with 30 years of history and hours of investment on something that worked.

Hickey-AuClaire and Grieve reviewed process concerning public comment.

Hickey-AuClaire and a member of the public discussed if there would be a meeting in Whitefish concerning the topic.

Public comment closed at 8:18 pm.

ADJOURNMENT The workshop was adjourned at approximately 8:18 pm.

Marie Hickey-AuClaire, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 11 / 12 / 14*